



NUCLEAR ENERGY INSTITUTE

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Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Attention: Rulemakings and Adjudications

**SUBJECT: Lawrence T. Christian, et. Al.; Receipt of Petition for
Rulemaking (67 Fed. Reg.212 November 1, 2002)
Request for Comments**

The Nuclear Energy Institute (NEI) submits these comments on behalf of the nuclear industry. We have reviewed the petition requesting that the NRC amend its regulations regarding offsite emergency plans for nuclear power plants to insure that all day care centers and nursery schools in the vicinity of the nuclear facilities are properly protected in the event of a radiological emergency. Specifically, the petition contends that current requirements are insufficient to protect potentially affected nursery schools and day care centers, and suggests significant and detailed changes to accommodate this.

Based on the discussion below the industry recommends that the petition be denied:

- Current requirements and established emergency plans contain all required planning elements, and provide reasonable assurance of adequate protection of all members of the public in the event of a nuclear power plant incident including child care centers and nursery schools.
- The proposed requirements would add significant burden on the state and local governments without providing significant additional benefit to public health and safety.

The following supports the basis for petition denial:

10 CFR 50.47(a) (1) requires that nuclear power plant licensees develop and maintain plans that provide reasonable assurance of adequate protection of the public in an emergency. 10 CFR 50.47(a)(2) states that the NRC will base its findings regarding adequacy of these plans on a review by FEMA, who will determine if the plans are adequate and whether there is reasonable assurance that they can be implemented.

FEMA promulgated NUREG 0654/ FEMA-REP-1 to provide detailed guidance on the development and implementation of these plans. Section II.J and Appendix 4 of that document details the requirements for the identification and planning for special populations and schools. The term "schools" "refers to public and private schools, and licensed or government supported pre-schools and day-care centers."

FEMA Guidance Memorandum (GM) EV-2, "Protective Actions For School Children" provides guidance to assist federal officials in evaluating adequacy of emergency plans and preparedness for protecting school children during a radiological emergency. Given that this GM is the standard to which established emergency plans are assessed, all such plans contain requirements to:

- identify the populations of all school facilities listed above
- determine and provide for protective actions for this population
- establish and maintain notification methods to these facilities
- determine and provide for transportation and relocation

These requirements are assessed at the biennial exercise at each nuclear power site. Given this, the industry believes that emergency plan requirements as currently codified provide reasonable assurance of adequate protection of all members of the public, including children in nursery schools and day care centers.

School facilities that are not licensed or government supported are assumed to be small, and not identifiable to emergency planners. It is expected that such facilities within the 10 mile emergency planning zone would be made aware of the existence of the emergency planning effort through the extensive public education effort, and would have the responsibility to plan for all emergencies. State or local government emergency planning offices are available to assist as necessary.

The industry recognizes that the success of any emergency plan lies in the cooperative efforts of all involved. Specifically, the licensees, state and local governments and the schools must continuously assess, test and revise emergency plans to achieve effectiveness. The industry will continue to support any such efforts.

If you have any questions regarding this response please contact me at (202) 739-8109 or by e-mail (lxh@nei.org), or Alan Nelson at (202) 739-8110 or by e-mail (apn@nei.org).

Sincerely,



Lynnette Hendricks